

**ORDINANCE** 122417

AN ORDINANCE relating to quasi-judicial decisions made by the City Council; amending sections 20.04.090, 23.34.004, 23.69.032, 23.76.004, 23.76.005, 23.76.036, 23.76.040, 23.76.050, 23.76.052, 23.76.054, 23.76.056, 23.76.058, 23.76.060 and 23.84A.030.

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. Subsection D1 of Section 20.04.090 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, is amended as follows:

**20.04.090 Final Assessment Roll – Hearing – Conduct.**

\* \* \*

D.1. An appeal pursuant to subsection C of this section may be filed only by a party who timely perfected a protest at the initial hearing. The notice of appeal shall, in addition to requirements as to content specified elsewhere in this chapter, state clearly on the cover or cover page the number of the local improvement district and the appellant's name and shall be filed with the City Clerk no later than the fourteenth (14<sup>th</sup>) ~~((fifteenth))~~ day after the day upon which the report and recommendation of the Hearing Examiner or other officer is filed with the City Clerk.

\* \* \*

Section 2. Subsection A of Section 23.34.004 of the Seattle Municipal Code, which section was last amended by Ordinance 112522, is amended as follows:

**23.34.004 Contract rezones.**

A. Property Use and Development Agreement (PUDA). The Council may approve a map amendment subject to the execution, delivery and recording of an agreement executed by the legal or beneficial owner of the property to be rezoned to self-imposed restrictions upon the use and development of the property in order to ameliorate adverse impacts ~~((which))~~ that could occur from unrestricted use and development permitted ~~((in the zone))~~ by development regulations otherwise applicable after the rezone. All restrictions shall be directly related to the impacts ~~((which))~~ that may be expected to result from the amendment. A rezone shall be



1 conditioned on performance or compliance with the terms and conditions of the property use and  
2 development agreement. Council may revoke a contract rezone or take other appropriate action  
3 allowed by law for failure to comply with a PUDA. The agreement((s)) shall be approved as to  
4 form by the City Attorney, and shall not be construed as a relinquishment by the City of its  
5 discretionary powers.

6 \* \* \*

7 Section 3. Subsection I of Section 23.69.032 of the Seattle Municipal Code, which  
8 section was last amended by Ordinance 121477, is amended as follows:

9 **23.69.032 Master plan process.**

10 \* \* \*

11 I. Council Consideration of the Hearing Examiner's Recommendation.

12 1. The Council shall review and consider the Hearing Examiner's recommendation as  
13 provided in Section 23.76.054, Council consideration of Hearing Examiner recommendation.  
14 The goal of the Council shall be to take final action on the Hearing Examiner's recommendation  
15 no later than three (3) months after the date it receives the recommendation.

16 2. If the Council examines the proposed master plan and all recommendations for  
17 changes, alternatives, mitigating measures and conditions, and determines that a significant  
18 master plan element (~~((or environmental issue))~~) was not adequately addressed by the proposed  
19 master plan, the Council may remand the master plan for submission of additional information  
20 and/or new proposal(s) on the issue determined to be inadequately addressed, in a time frame  
21 specified in the remand (~~((request the institution to prepare new proposals on the issue identified,~~  
22 ~~may request the Director to conduct further analysis or provide clarification, and may request the~~  
23 ~~Advisory Committee to convene for the limited purpose of commenting on the new proposals))~~).  
24 The institution shall submit the additional information and/or new proposals to the Advisory  
25 Committee, to the parties of record to the Council decision to remand, and to the Director. The  
26 Advisory Committee shall prepare and submit comments and a report to the Director. The  
27 Director shall submit a report and recommendation on the additional information and/or new  
28

1 proposal(s) to the Hearing Examiner. The Hearing Examiner shall consider the additional  
2 information and/or new proposal(s) and submit a recommendation to Council pursuant to  
3 subsection 23.69.32H above.((The new proposals shall also be submitted to the Director,  
4 Advisory Committee and parties of record for comment. After the new proposals and comments  
5 have been received, the Council may:

- 6 a. ~~Remand the new proposals and Advisory Committee comments and~~  
7 ~~recommendations to the Director for further consideration and report; or~~  
8 b. ~~Direct the Hearing Examiner to conduct another hearing and to reconsider the~~  
9 ~~recommendation based on the new proposals, the Advisory Committee comments~~  
10 ~~and recommendation, and/or any comments pertaining to the limited issues which~~  
11 ~~were presented by other parties of record; or~~  
12 c. ~~Open the record for a hearing on the new proposals, the Advisory Committee~~  
13 ~~comments and recommendation, and any comments pertaining to the limited~~  
14 ~~issues which were presented by other parties of record.))~~

15 \* \* \*

16 Section 4. Exhibit 23.76.004 A Land Use Decision Framework, which section was last  
17 amended by Ordinance 121828, is amended as shown in Attachment A.

18  
19 Section 5. Subsection C of Section 23.76.005 of the Seattle Municipal Code, which  
20 section was last amended by Ordinance 120857, is amended as follows:

21 **23.76.005 Time for decisions.**

22 \* \* \*

23 C. Exclusions Pursuant to RCW 36.70B.140(1).

24 1. Type II decisions. There ~~((shall be))~~ is no time limit for a decision on an application for  
25 an exception from the regulations for Environmentally Critical Areas, SMC Chapter  
26 25.09.

27 2. Type III decisions.  
28

a. The Director shall issue ~~((his or her))~~ a recommendation within one hundred twenty (120) days as that time is calculated pursuant to subsection A of this section; and

b. The Hearing Examiner shall issue ~~((his or her))~~ a decision within ninety (90) days of issuance of the Director's recommendation.

3. Type IV decisions.

a. There is ~~((shall be))~~ no time limit for decisions on Major Institution master plans.

b. All other Type IV Council land use decisions and any associated Type II decisions listed in Section 23.76.006C2, except for the exclusion listed in subsection C1 of this section, shall be made within the following time periods:

(1) The Director shall issue ~~((his or her))~~ a recommendation within one hundred twenty (120) days as that time period is calculated pursuant to subsection A of this section;

(2) The Hearing Examiner shall issue ~~((his or her))~~ a decision within ninety (90) days of issuance of the Director's recommendation; and

(3) The Council shall issue its decision within ninety (90) days of receipt of the Hearing Examiner recommendation, except that if a timely appeal is filed with the City Clerk, the Council shall issue its decision within one hundred-twenty (120) days of receipt of the Hearing Examiner recommendation.

4. Any application for a land use decision that the Hearing Examiner or Council remands for further information or analysis shall be excluded from the time periods of subsection A of this section for the period of the remand. The Hearing Examiner or the Council shall set a reasonable period for the remand after consideration of the nature and complexity of the issues, and, when practicable, after consultation with the parties about the reasonableness of the remand period.

\* \* \*



Section 6. Section 23.76.036 of the Seattle Municipal Code, which section was last amended by Ordinance 122054, is amended as follows:

**23.76.036 Council decisions required.**

A. Quasi-judicial decisions

1. The Council shall make the following Type IV Council land use decisions, including any integrated decisions to approve, condition or deny based on SEPA Policies, and any associated Type II decisions listed in Section 23.76.006C2:

((+))a. Amendments to the Official Land Use Map, including changes in overlay districts and shoreline environment redesignations, except ~~((those initiated by the City))~~ area-wide amendments, and except ~~((boundary))~~ adjustments ~~((caused by the acquisition, merger or consolidation of two (2) Major Institutions))~~ pursuant to Section 23.69.023;

((2))b. Public projects ~~((proposed by applicants other than The City of Seattle))~~ that require Council approval;

((3))c. Major Institution master plans, including major amendments as defined in Section 23.69.035 and renewal of a master plan's development plan component pursuant to Section 23.69.036 ~~((supplemental procedures for master plans are established in SMC Chapter 23.69)))~~; ~~((and))~~

((4))d. Council conditional uses ~~((:))~~; and

e. Major amendments to Property Use and Development Agreements pursuant to Section 23.76.058.

2. The Council shall also make the following quasi-judicial decisions:

a. Minor amendments to Property Use and Development Agreements; and

b. Extensions of Type IV land use decisions pursuant to Section 23.76.060.

B. Council action ~~((shall be))~~ is required for the following Type V land use decisions:

1. ~~((City-initiated))~~ Area-wide amendments to the Official Land Use Map;

2. Amendments to the text of ~~((SMC))~~ Title 23, Land Use Code;

3. Concept approval for the location or expansion of City facilities requiring Council land use approval by ((SMC)) Title 23, Land Use Code;
4. Major Institution designations and revocations of Major Institution designations;
5. ((Waive)) Waiver or ((modify)) modification of development standards for City facilities;
6. Planned action ordinances; and
7. Corrections of errors on the official Land Use Map due to cartographic and clerical mistakes.

Section 7. Subsection B of Section 23.76.040 of the Seattle Municipal Code, which section was last amended by Ordinance 122054, is amended as follows:

**23.76.040 Applications for Council land use decisions.**

\* \* \*

B. All applications for Council land use decisions shall be made to the Director on a form provided by the Department. The Director shall ~~((promptly transmit notice of applications for Council land use decisions to the City Clerk for filing with the Council.))~~;

1. for Council land use decisions that do not include a design review component and are not applications for Major Institution Master Plans, transmit notice of the application to the City Clerk for filing with the City Council promptly after the application is first submitted.

2. for Council land use decisions that include a design review component:

a. For applications subject to design review by the Design Review Board, transmit notice of the early design guidance public meeting to the City Clerk for filing with the City Council promptly at the same time public notice is provided.

b. For applications subject to administrative design review, transmit notice of the application to the City Clerk for filing with the City Council promptly after the applicant applies to begin the early design guidance process.

3. for applications for Major Institution Master Plans, transmit the notice of intent to prepare a master plan to the City Clerk for filing with the City Council promptly after the notice of intent is received.

\* \* \*

Section 8. Subsection D of Section 23.76.050 of the Seattle Municipal Code, which section was last amended by Ordinance 121476, is amended as follows:

**23.76.050 Report of the Director.**

\* \* \*

D. For Type IV Decisions, the Director's report shall be submitted to the Hearing Examiner and filed with the City Clerk on the same date the notice of availability of the Director's report is given pursuant to Section 23.76.052. The Director's report shall be made available for public inspection at least twenty-one (21) days prior to the Hearing Examiner's open record predecision public hearing described in Section 23.76.052.

\* \* \*

Section 9. Subsection C.1 of Section 23.76.052 of the Seattle Municipal Code, which section was last amended by Ordinance 121477, is amended as follows:

**23.76.052 Hearing Examiner open record predecision hearing and recommendation.**

\* \* \*

C. Notice.

1. The Director shall give notice of the Hearing Examiner's hearing, the Director's environmental determination, and of the availability of the Director's report at least ((fifteen (15))) twenty-one (21) days prior to the hearing by:

- a. Land Use Information Bulletin;
- b. Publication in the City official newspaper;
- c. Submission of the Land Use Information Bulletin to at least one (1) community newspaper in the area affected by the proposal;
- d. One (1) land use sign visible to the public posted at each street frontage abutting the site except, when there is no street frontage or the site abuts an unimproved street, the Director shall either post more than one (1) sign and/or select an alternative posting location so that notice is clearly visible to the public. For hearings on Major Institution Master Plans, one (1) land use sign posted at each street frontage abutting the site but not to exceed ten (10) land use signs;
- e. Mailed notice; and
- f. Posting in the Department.

\* \* \*

Section 10. Section 23.76.054 of the Seattle Municipal Code, which section was last amended by Ordinance 118012, is amended as follows:

**23.76.054 Council consideration of Hearing Examiner recommendation.**

A. Any person substantially affected by or interested in the Hearing Examiner's recommendation regarding a Type IV land use decision may submit in writing an appeal of the recommendation to the Council (~~((a request for further consideration of the recommendation))~~) and, if desired, a request to supplement the record. No appeals (~~((requests for further consideration))~~) of a DNS or the determination that an EIS is adequate will be accepted.

B. Appeals of the Hearing Examiner's recommendation (~~((Requests for further consideration))~~) shall be filed with the City Clerk (~~((Council))~~) by five (5:00) p.m. of the fourteenth (14th) calendar day following the date of issuance of the Hearing Examiner's recommendation. When the last day of the request period so computed is a Saturday, Sunday or federal or City holiday, the request period (~~((shall run))~~) runs until five (5:00) p.m. on the next business day.





C. The appeal ~~((request))~~ shall clearly identify specific objections to the Hearing Examiner's recommendation ~~((, facts missing from the record,))~~ and specify the relief sought.

D. ~~((C)).~~ After the City Clerk's ~~((Council))~~ receipt of an appeal, ~~((the request for further consideration, the))~~ Council staff shall mail a copy of the appeal ~~((request for further consideration))~~ and instructions for responding ~~((to the request))~~ to those persons ~~((individuals))~~ who were provided written notice of the Hearing Examiner's recommendation ~~((action. Such notice shall be mailed))~~ at least twenty-one (21) ~~((seven (7)))~~ days prior to the date of the Council's public meeting to consider the appeal ~~((request for further consideration))~~.

E. ~~((D)).~~ Council action shall be based on the record established by the Hearing Examiner, ~~((; provided, however, that if a request for further consideration includes a request to supplement the record, the))~~ The Council may supplement the record with new evidence or information if the Council determines that the new evidence or information was not available or could not reasonably have been produced at the time of the open record hearing before the Hearing Examiner. The Council may remand an application for a Type IV land use decision only when ~~((the))~~:

1. The Council has voted to supplement the record and has determined ~~((the Council determines that it is necessary for))~~ that the Director or the Hearing Examiner should ~~((to receive the new evidence and))~~ reconsider the application in light of the new evidence ~~((it.))~~; or

2. For major institution master plans, the Council has determined that there is a need for additional information or new proposal(s) pursuant to 23.69.032.

F. The Council may allow oral or written arguments based on the record.

Section 11. Subsections A, C and E of Section 23.76.056 of the Seattle Municipal Code, which section was last amended by Ordinance 120928, are amended as follows:

**23.76.056 Council decision on Hearing Examiner Recommendation.**

A. The Council's decision to approve, approve with conditions, remand, or deny the application for a Type IV land use decision shall be based on applicable law and supported by

1 substantial evidence in the record established pursuant to ((SMC)) Section 23.76.054. An  
2 appellant bears the burden of proving that the Hearing Examiner's recommendation should be  
3 rejected or modified.

4 \* \* \*

5 C. To the extent such information is available to the Council, the decision should contain  
6 the name and address of the owner of the property at issue, of the applicant, and of each person  
7 who filed an appeal of the Hearing Examiner's recommendation ~~((a request for further~~  
8 ~~consideration))~~ with the Council, unless such person abandoned the appeal ~~((request))~~ or such  
9 person's claims were dismissed before the hearing.

10 \* \* \*

11 E. A copy of the Council's findings, conclusions and decision shall be transmitted to the  
12 City Clerk, who shall promptly send a copy to the Director and the Hearing Examiner, and  
13 ~~((shall)) promptly mail copies to all parties of record ((and to any person who has submitted~~  
14 ~~substantive comments to the Director, Hearing Examiner or City Council on the proposal))~~. The  
15 Clerk's transmittal letter shall include official notice of the time and place for seeking judicial  
16 review. The Director shall be bound by and incorporate the terms and conditions of the Council's  
17 decision in permits issued to the applicant or on approved plans.

18 \* \* \*

19 Section 12. Subsection B of Section 23.76.058 of the Seattle Municipal Code, which  
20 section was last amended by Ordinance 122054, is amended as follows:

21 **23.76.058 Rules for specific decisions.**

22 \* \* \*

23 B. Contract Rezones

24 1. When a property use and development agreement is required as a condition to an  
25 amendment of the Official Land Use Map, the ~~((ordinance rezoning the property shall provide for~~  
26 ~~acceptance of the agreement and shall not be passed by the Council until the agreement has been~~  
27 ~~executed by the owner)) amendment shall not take effect until the later of (1) the effective date~~  
28

1 of the ordinance approving the map amendment and accepting the property use and development  
2 agreement, as specified in the ordinance or pursuant to Section 1.04.020 or (2) the recording in  
3 the King County Recorder's Office of the agreement executed by the legal and beneficial owners.

4 The ~~((executed))~~ agreement shall be recorded in the real property records of King County and  
5 filed with the City Clerk within thirty (30) ~~((one-hundred-twenty (120)))~~ days ~~((of))~~ after  
6 adoption of the ordinance approving the map amendment and accepting the agreement.

7 2. Amendment of ~~((Contract Rezone))~~ Property Use and Development Agreements.  
8 ~~((Agreements required))~~ Property use and development agreements recorded as a condition to a  
9 map amendment~~((s))~~ may be amended by agreement between the owner and the City, provided  
10 ~~((the amended agreement))~~ that any such amendment shall be approved by the Council.

11 a. A request to amend shall be submitted to the Department of Planning and  
12 Development and filed with the City Clerk. Notice of a request to amend and  
13 opportunity to comment shall be provided in accordance with notice requirements  
14 of Section 23.76.012 B(1) or B(2), and B(3), and to the parties of record in the  
15 original rezone decision and to those persons who were provided written notice of  
16 the Hearing Examiner's recommendation in the original rezone decision.

17 b. The Director shall determine whether the requested amendment is major or  
18 minor.

19 (1) Minor amendments. A minor amendment is one that is ~~((Amendments~~  
20 ~~which are))~~ within the spirit and general purpose of the prior decision of  
21 the Council, is generally consistent with the uses and development  
22 standards approved in the prior decision of the Council, would not result in  
23 significant adverse impacts that were not anticipated in the prior decision  
24 of the Council, and does not request any additional waivers or changes in  
25 the waivers of bulk or off-street parking and loading requirements other  
26 than those approved in the prior decision of the Council. If the Director  
27 determines that a proposed amendment is minor, the Director shall  
28

1 transmit to Council the request to amend, the Director's determination that  
2 the request is minor, any comments received by the Director on the  
3 proposed amendment, the Director's environmental determination and  
4 recommendation on the amendment. A request to amend that is minor and  
5 that complies with the rezone criteria of Chapter 23.34 may be approved  
6 by the Council by ordinance after receiving any additional advice  
7 ((which)) that it deems necessary. ((Written notice and an opportunity to  
8 comment shall be provided by the Council at least fourteen (14) days prior  
9 to Council consideration of the requested amendment to persons who  
10 submitted written or oral comments on the original rezone decision.  
11 Amendments which in the judgment of the Council represent a major  
12 departure from the terms of the agreement))  
13 (2) Major Amendments. Requests that are not minor are major. The  
14 Council shall not approve a major amendment to a property use and  
15 development agreement ((shall not be approved)) until the Council has  
16 received a recommendation from the Hearing Examiner after a public  
17 hearing held as provided for rezones in Section 23.76.052, Hearing  
18 Examiner open record predecision hearing and recommendation.

19 \* \* \*

20 Section 13. Subsection A, B and D of Section 23.76.060 of the Seattle Municipal Code,  
21 which section was last amended by Ordinance 122054, are amended as follows:

22 **23.76.060 Expiration of land use approvals – Extensions.**

23 A. Approvals Granted Under Title 24. Expiration of Council land use approvals granted  
24 under ((SMC)) Title 24, Zoning and Subdivisions, ((shall be)) are governed by the applicable  
25 provisions of ((SMC Title 24, Zoning and Subdivisions, and SMC)) Section 23.04.010,  
26 Transition to the Land Use Code.

27 B. Contract Rezones, Council Conditional Uses and Public projects.  
28

1. Contract rezones, Council conditional uses and public projects approved under Title 23 ((shall)) expire two (2) years from the effective date of approval unless:

- a. Within the two (2) year period, an application is filed for a Master Use Permit, which permit is subsequently issued; or
- b. Another time for expiration is specified in the Council's decision.

2. If a Master Use Permit is issued for the contract rezone, Council conditional use or public project, the Council's approval of the contract rezone, Council conditional use or public project, ((shall remain)) remains in effect until the Master Use Permit expires pursuant to the provisions of Section 23.76.032, or until the time specified by the Council, whichever is longer.

3. When a contract rezone expires, the Director shall file a certificate of expiration with the City Clerk and a notation shall be placed on the Official Land Use Map showing the reversion to the former classification.

\* \* \*

D. Extensions. The Council may extend the time limits on Type IV land use approvals for no more than two (2) years, upon an applicant's request for an extension filed with the City Clerk ((Council)) at least thirty (30) days before the approval's expiration. The Council may request a recommendation on the extension request from the Director, but the Hearing Examiner hearing and recommendation requirements of Section 23.76.052 do not apply. Notice for requests for extensions of Type IV land use decisions shall be provided pursuant to Sections 23.76.012 B(1) or B(2), and B(3).

1. The Council may not extend the time limits for a Type IV land use approval for a project that is not in conformance with applicable regulations, including land use and environmentally critical areas regulations, in effect at the time an extension is sought.

2. In deciding whether to grant a request for an extension, the Council shall consider:

- a. The reason or basis for the request for the extension and whether it is reasonable under the circumstances;
- b. Whether changed circumstances in the area support an extension;

c. Whether additional time is reasonably necessary to comply with a condition of approval adopted by the Council that is required to be fulfilled prior to expiration of the land use approval.

\* \* \*

Section 14. Subsection P of Section 23.84A.030 of the Seattle Municipal Code, which section was last amended by Ordinance 122311, is amended as follows:

**23.84A.030 Definitions "P."**

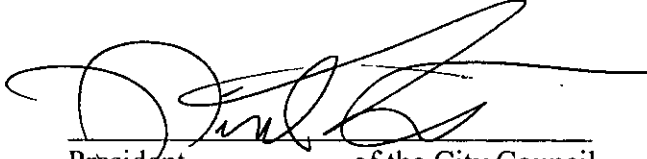
\* \* \*

"Party of record" means any person (~~(, group, association or corporation that)~~) who files an appeal; a person granted party status through intervention; the City department making the decision or determination and any of its employees or agents; the owner(s) of the property subject to the quasi-judicial action; and the person who files an application for a permit or other type of development authorization that is the subject of the appeal.

\* \* \*

Section 15. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 17<sup>th</sup> day of September, 2007, and signed by me in open session in authentication of its passage this 17<sup>th</sup> day of September, 2007.

  
President \_\_\_\_\_ of the City Council

Approved by me this 21<sup>st</sup> day of September, 2007.

  
Gregory J. Nickels, Mayor

Filed by me this 27<sup>th</sup> day of September, 2007.

  
City Clerk

(Seal)

ATTACHMENT A: Amended Exhibit 23.76.004A

Attachment A

**Exhibit 23.76.004A**  
**LAND USE DECISION FRAMEWORK**

**DIRECTOR'S AND HEARING EXAMINER'S  
DECISIONS REQUIRING MASTER USE PERMITS**

<b>TYPE I</b> <b>Director's Decision</b> <b>(No Administrative Appeal)</b>	<b>TYPE II</b> <b>Director's Decision</b> <b>(Appealable to Hearing Examiner*)</b>	<b>TYPE III Hearing Examiner's Decision</b> <b>(No Administrative Appeal)</b>
<ul style="list-style-type: none"> <li>• Compliance with development standards</li> <li>• Uses permitted outright</li> <li>• Temporary uses, four weeks or less</li> <li>• Intermittent uses</li> <li>• Certain street uses</li> <li>• Lot boundary adjustments</li> <li>• Modifications of features bonused under Title 24</li> <li>• Determinations of significance (EIS required) except for determinations of significance based solely on historic and cultural preservation</li> <li>• Temporary uses, twelve months or less, for relocation of police and fire protection</li> <li>• Exemptions from right-of-way improvement</li> </ul>	<ul style="list-style-type: none"> <li>• Temporary uses, more than four weeks</li> <li>• Variances</li> <li>• Administrative conditional uses</li> <li>• Shoreline decisions (*appealable to Shorelines Hearings Board along with all related environmental appeals)</li> <li>• Short subdivisions</li> <li>• Special exceptions</li> <li>• Design review</li> <li>• Light rail transit facilities</li> <li>• Monorail transit facilities</li> <li>• The following environmental determinations: <ul style="list-style-type: none"> <li>1. Determination of nonsignificance (EIS not</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Subdivisions (preliminary plats)</li> </ul>





**Exhibit 23.76.004A**  
**LAND USE DECISION FRAMEWORK**

**DIRECTOR'S AND HEARING EXAMINER'S  
DECISIONS REQUIRING MASTER USE PERMITS**

<b>TYPE I</b> <b>Director's Decision</b> <b>(No Administrative Appeal)</b>	<b>TYPE II</b> <b>Director's Decision</b> <b>(Appealable to Hearing Examiner*)</b>	<b>TYPE III Hearing Examiner's Decision</b> <b>(No Administrative Appeal)</b>
<p>requirements</p> <ul style="list-style-type: none"> <li>• Special accommodation</li> <li>• Reasonable accommodation</li> <li>• Minor amendment to a Major Phased Development Permit</li> <li>• Determination of public benefit for combined lot FAR</li> <li>• Other Type I decisions that are identified as such in the Land Use code</li> </ul>	<p>required)</p> <p>2. Determination of final EIS adequacy</p> <p>3. Determination of significance based solely on historic and cultural preservation</p> <p>4. A decision by the Director to approve, condition or deny a project based on SEPA Policies</p> <p>5. A decision by the Director that a project is consistent with a Planned Action Ordinance and EIS (no threshold determination or EIS required)</p> <ul style="list-style-type: none"> <li>• Major Phased Development</li> <li>• Downtown Planned Community Developments</li> </ul>	

## COUNCIL LAND USE DECISIONS

TYPE IV (Quasi-Judicial – subject to Hearing Examiner recommendation)	TYPE V (Legislative)
<ul style="list-style-type: none"><li>• <u>Amendments to the Official Land ((use))Use ((map))Map ((amendments)) (rezones), except area-wide amendments, and adjustments pursuant to Section 23.69.023</u></li><li>• Public project approvals</li><li>• Major Institution master plans, <u>including major amendments and renewal of a master plan's development plan component</u></li><li>• <u>Major amendments to Property Use and Development agreements</u></li><li>• Council conditional uses</li></ul>	<ul style="list-style-type: none"><li>• Land Use Code text amendments</li><li>• <del>((Rezones to implement new City Policies))</del> <u>Area-wide amendments to the Official Land Use Map</u></li><li>• Concept approval for City facilities</li><li>• Major Institution designations</li><li>• <del>((Waive))</del> <u>Waiver or ((modify)) modification of development standards for City facilities</u></li><li>• Planned Action Ordinance</li></ul>

## **FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>DOF Analyst/Phone:</b>
Legislative	Rebecca Herzfeld	

### **Legislation Title:**

AN ORDINANCE regarding the procedures for quasi-judicial decisions made by the City Council; amending sections 20.04.090, 23.34.004, 23.69.032, 23.76.004, 23.76.005, 23.76.036, 23.76.040, 23.76.050, 23.76.052, 23.76.054, 23.76.056, 23.76.058, 23.76.060, 23.84.030 and 23.84A.030.

- **Summary of the Legislation:**

The legislation amends existing provisions in the Seattle Municipal Code that govern code requirements, standards and criteria used by the Council to evaluate quasi-judicial land use actions and quasi-judicial appeals on local improvement district assessments.

- **Background:** *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*

This Council-generated legislation is designed to implement changes to quasi-judicial decision-making code sections further supported through the Council's quasi-judicial rules. This legislation implements part of Council's work plan for 2007

- *Please check one of the following:*

  X   **This legislation does not have any financial implications.** *(Stop here and delete the remainder of this document prior to saving and printing.)*

       **This legislation has financial implications.** *(Please complete all relevant sections that follow.)*



**ORDINANCE \_\_\_\_\_**

AN ORDINANCE relating to quasi-judicial decisions made by the City Council; amending sections 20.04.090, 23.34.004, 23.69.032, 23.76.004, 23.76.005, 23.76.036, 23.76.040, 23.76.050, 23.76.052, 23.76.054, 23.76.056, 23.76.058, 23.76.060 and 23.84A.030.

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. Subsection D1 of Section 20.04.090 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, is amended as follows:

**20.04.090 Final Assessment Roll – Hearing – Conduct.**

\* \* \*

D.1. An appeal pursuant to subsection C of this section may be filed only by a party who timely perfected a protest at the initial hearing. The notice of appeal shall, in addition to requirements as to content specified elsewhere in this chapter, state clearly on the cover or cover page the number of the local improvement district and the appellant's name and shall be filed with the City Clerk no later than the fourteenth (14<sup>th</sup>) ~~((fifteenth))~~ day after the day upon which the report and recommendation of the Hearing Examiner or other officer is filed with the City Clerk.

\* \* \*

Section 2. Subsection A of Section 23.34.004 of the Seattle Municipal Code, which section was last amended by Ordinance 112522, is amended as follows:

**23.34.004 Contract rezones.**

A. Property Use and Development Agreement (PUDA). The Council may approve a map amendment subject to the execution, delivery and recording of an agreement executed by all owners ~~((the legal or beneficial owner))~~ of the property to be rezoned to self-imposed restrictions upon the use and development of the property in order to ameliorate adverse impacts ~~((which))~~ that could occur from unrestricted use and development permitted ~~((in the zone))~~ by development regulations otherwise applicable after the rezone. All restrictions shall be directly related to the impacts ~~((which))~~ that may be expected to result from the amendment. If a rezone is conditioned on performance or compliance by the owner with the terms and conditions of the property use



1 and development agreement, then, unless otherwise stated in the ordinance approving the rezone,  
2 if any condition of the rezone is not satisfied, the rezone shall be void from the beginning, i.e.,  
3 from the effective date of the ordinance that adopted the rezone and accepted the property use  
4 and development agreement. The agreements shall be approved as to form by the City Attorney,  
5 and shall not be construed as a relinquishment by the City of its discretionary powers.

6 \* \* \*

7 Section 3. Subsection I of Section 23.69.032 of the Seattle Municipal Code, which  
8 section was last amended by Ordinance 121477, is amended as follows:

9 **23.69.032 Master plan process.**

10 \* \* \*

11 I. Council Consideration of the Hearing Examiner's Recommendation.

12 1. The Council shall review and consider the Hearing Examiner's recommendation as  
13 provided in Section 23.76.054, Council consideration of Hearing Examiner recommendation.  
14 The goal of the Council shall be to take final action on the Hearing Examiner's recommendation  
15 no later than three (3) months after the date it receives the recommendation.

16 2. If the Council examines the proposed master plan and all recommendations for  
17 changes, alternatives, mitigating measures and conditions, and determines that a significant  
18 master plan element (~~((or environmental issue))~~) was not adequately addressed by the proposed  
19 master plan, the Council may remand the master plan for submission of additional information  
20 and/or new proposal(s) on the issue determined to be inadequately addressed, in a time frame  
21 specified in the remand (~~((request the institution to prepare new proposals on the issue identified,~~  
22 ~~may request the Director to conduct further analysis or provide clarification, and may request the~~  
23 ~~Advisory Committee to convene for the limited purpose of commenting on the new proposals))~~).  
24 The institution shall submit the additional information and/or new proposals to the Advisory  
25 Committee, to the parties of record to the Council decision to remand, and to the Director. The  
26 Advisory Committee shall prepare and submit comments and a report to the Director. The  
27 Director shall submit a report and recommendation on the additional information and/or new  
28

1 proposal(s) to the Hearing Examiner. The Hearing Examiner shall consider the additional  
2 information and/or new proposal(s) and submit a recommendation to Council pursuant to  
3 subsection 23.69.32H above.((The new proposals shall also be submitted to the Director,  
4 Advisory Committee and parties of record for comment. After the new proposals and comments  
5 have been received, the Council may:

- 6 a. ~~Remand the new proposals and Advisory Committee comments and~~  
7 ~~recommendations to the Director for further consideration and report; or~~  
8 b. ~~Direct the Hearing Examiner to conduct another hearing and to reconsider the~~  
9 ~~recommendation based on the new proposals, the Advisory Committee comments~~  
10 ~~and recommendation, and/or any comments pertaining to the limited issues which~~  
11 ~~were presented by other parties of record; or~~  
12 e. ~~Open the record for a hearing on the new proposals, the Advisory Committee~~  
13 ~~comments and recommendation, and any comments pertaining to the limited~~  
14 ~~issues which were presented by other parties of record.))~~

15 \* \* \*

16 Section 4. Exhibit 23.76.004 A Land Use Decision Framework, which section was last  
17 amended by Ordinance 121828, is amended as shown in Attachment A.

18  
19 Section 5. Subsection C of Section 23.76.005 of the Seattle Municipal Code, which  
20 section was last amended by Ordinance 120857, is amended as follows:

21 **23.76.005 Time for decisions.**

22 \* \* \*

23 C. Exclusions Pursuant to RCW 36.70B.140(1).

24 1. Type II decisions. There ((shall be)) is no time limit for a decision on an application for  
25 an exception from the regulations for Environmentally Critical Areas, SMC Chapter  
26 25.09.

27 2. Type III decisions.  
28

1 a. The Director shall issue ~~((his or her))~~ a recommendation within one hundred  
2 twenty (120) days as that time is calculated pursuant to subsection A of this  
3 section; and

4 b. The Hearing Examiner shall issue ~~((his or her))~~ a decision within ninety (90)  
5 days of issuance of the Director's recommendation.

6 3. Type IV decisions.

7 a. There is ~~((shall be))~~ no time limit for decisions on Major Institution master  
8 plans.

9 b. All other Type IV Council land use decisions and any associated Type II  
10 decisions listed in Section 23.76.006C2, except for the exclusion listed in  
11 subsection C1 of this section, shall be made within the following time periods:

12 (1) The Director shall issue ~~((his or her))~~ a recommendation within one  
13 hundred twenty (120) days as that time period is calculated pursuant to  
14 subsection A of this section;

15 (2) The Hearing Examiner shall issue ~~((his or her))~~ a decision within  
16 ninety (90) days of issuance of the Director's recommendation; and

17 (3) The Council shall issue its decision within ninety (90) days of receipt  
18 of the Hearing Examiner recommendation, except that if a timely appeal is  
19 filed with the City Clerk, the Council shall issue its decision within one  
20 hundred-twenty (120) days of receipt of the Hearing Examiner  
21 recommendation.

22 4. Any application for a land use decision that the Hearing Examiner or Council remands  
23 for further information or analysis shall be excluded from the time periods of subsection A of this  
24 section for the period of the remand. The Hearing Examiner or the Council shall set a reasonable  
25 period for the remand after consideration of the nature and complexity of the issues, and, when  
26 practicable, after consultation with the parties about the reasonableness of the remand period.

27 \* \* \*



Section 6. Section 23.76.036 of the Seattle Municipal Code, which section was last amended by Ordinance 122054, is amended as follows:

**23.76.036 Council decisions required.**

A. Quasi-judicial decisions

1. The Council shall make the following Type IV Council land use decisions, including any integrated decisions to approve, condition or deny based on SEPA Policies, and any associated Type II decisions listed in Section 23.76.006C2:

((4))a. Amendments to the Official Land Use Map, including changes in overlay districts and shoreline environment redesignations, except ~~((those initiated by the City))~~ area-wide amendments, and except ~~((boundary))~~ adjustments ~~((caused by the acquisition, merger or consolidation of two (2) Major Institutions))~~ pursuant to Section 23.69.023;

((2))b. Public projects ~~((proposed by applicants other than The City of Seattle))~~ that require Council approval;

((3))c. Major Institution master plans, including major amendments as defined in Section 23.69.035 and renewal of a master plan's development plan component pursuant to Section 23.69.036 ~~((supplemental procedures for master plans are established in SMC Chapter 23.69))~~; ~~((and))~~

((4))d. Council conditional uses ~~((:))~~; and

e. Major amendments to Property Use and Development Agreements pursuant to Section 23.76.058.

2. The Council shall also make the following quasi-judicial decisions:

a. Minor amendments to Property Use and Development Agreements; and

b. Extensions of Type IV land use decisions pursuant to Section 23.76.060.

B. Council action ~~((shall be))~~ is required for the following Type V land use decisions:

1. ~~((City initiated))~~ Area-wide amendments to the Official Land Use Map;

2. Amendments to the text of ~~((SMC))~~ Title 23, Land Use Code;



3. Concept approval for the location or expansion of City facilities requiring Council land use approval by ((SMC)) Title 23, Land Use Code;
4. Major Institution designations and revocations of Major Institution designations;
5. ((Waive)) Waiver or ((modify)) modification of development standards for City facilities;
6. Planned action ordinances; and
7. Corrections of errors on the official Land Use Map due to cartographic and clerical mistakes.

Section 7. Subsection B of Section 23.76.040 of the Seattle Municipal Code, which section was last amended by Ordinance 122054, is amended as follows:

**23.76.040 Applications for Council land use decisions.**

\*\*\*

B. All applications for Council land use decisions shall be made to the Director on a form provided by the Department. ~~((The Director shall promptly transmit applications for Council land use decisions to the City Clerk for filing with the Council.))~~

\*\*\*

Section 8. Subsection D of Section 23.76.050 of the Seattle Municipal Code, which section was last amended by Ordinance 121476, is amended as follows:

**23.76.050 Report of the Director.**

\*\*\*

D. For Type IV Decisions, the Director's report shall be submitted to the Hearing Examiner and filed with the City Clerk on the same date the notice of availability of the Director's report and of the Hearing Examiner hearing is given pursuant to Section 23.76.052.  
The Director's Report shall be made available for public inspection at least twenty-one (21) days

1 prior to the Hearing Examiner's open record predecision public hearing described in Section  
2 23.76.052.

3 \* \* \*

4 Section 9. Subsection C.1 of Section 23.76.052 of the Seattle Municipal Code, which  
5 section was last amended by Ordinance 121477, is amended as follows:

6 **23.76.052 Hearing Examiner open record predecision hearing and recommendation.**

7 \* \* \*

8 C. Notice.

9 1. The Director shall give notice of the Hearing Examiner's hearing, the Director's  
10 environmental determination, and of the availability of the Director's report at least ((fifteen  
11 (+5))) twenty-one (21) days prior to the hearing by:

- 12 a. Land Use Information Bulletin;
- 13 b. Publication in the City official newspaper;
- 14 c. Submission of the Land Use Information Bulletin to at least one (1) community  
15 newspaper in the area affected by the proposal;
- 16 d. One (1) land use sign visible to the public posted at each street frontage  
17 abutting the site except, when there is no street frontage or the site abuts an  
18 unimproved street, the Director shall either post more than one (1) sign and/or  
19 select an alternative posting location so that notice is clearly visible to the public.  
20 For hearings on Major Institution Master Plans, one (1) land use sign posted at  
21 each street frontage abutting the site but not to exceed ten (10) land use signs;
- 22 e. Mailed notice; and
- 23 f. Posting in the Department.

24 \* \* \*

25 Section 10. Section 23.76.054 of the Seattle Municipal Code, which section was last  
26 amended by Ordinance 118012, is amended as follows:

27 **23.76.054 Council consideration of Hearing Examiner recommendation.**

1 A. Any person substantially affected by or interested in the Hearing Examiner's  
2 recommendation regarding a Type IV land use decision may submit in writing an appeal of the  
3 recommendation to the Council (~~((a request for further consideration of the recommendation))~~)  
4 and, if desired, a request to supplement the record. No appeals (~~((requests for further~~  
5 ~~consideration))~~) of a DNS or the determination that an EIS is adequate will be accepted.

6 B. Appeals of the Hearing Examiner's recommendation (~~((Requests for further~~  
7 ~~consideration))~~) shall be filed with the City Clerk (~~((Council))~~) by five (5:00) p.m. of the fourteenth  
8 (14th) calendar day following the date of issuance of the Hearing Examiner's recommendation.  
9 When the last day of the request period so computed is a Saturday, Sunday or federal or City  
10 holiday, the request period (~~((shall run))~~) runs until five (5:00) p.m. on the next business day.

11 C. The appeal (~~((request))~~) shall clearly identify specific objections to the Hearing  
12 Examiner's recommendation (~~((, facts missing from the record,))~~) and specify the relief sought.

13 D. (~~((C))~~). After the City Clerk's (~~((Council))~~) receipt of an appeal, (~~((the request for further~~  
14 ~~consideration, the))~~) Council staff shall mail a copy of the appeal (~~((request for further~~  
15 ~~consideration))~~) and instructions for responding (~~((to the request))~~) to those persons (~~((individuals))~~)  
16 who were provided written notice of the Hearing Examiner's recommendation (~~((action. Such~~  
17 ~~notice shall be mailed))~~) at least twenty-one (21) (~~((seven (7)))~~) days prior to the date of the  
18 Council's public meeting to consider the appeal (~~((request for further consideration))~~).

19 E(~~((D))~~). Council action shall be based on the record established by the Hearing Examiner.  
20 (~~((; provided, however, that if a request for further consideration includes a request to supplement~~  
21 ~~the record, the))~~) The Council may supplement the record with new evidence or information if  
22 the Council determines that the new evidence or information was not available or could not  
23 reasonably have been produced at the time of the open record hearing before the Hearing  
24 Examiner. The Council may remand an application for a Type IV land use decision only when  
25 ((the));

1. The Council has voted to supplement the record and has determined ~~((the Council determines that it is necessary for))~~ that the Director or the Hearing Examiner should ~~((to receive the new evidence and))~~ reconsider the application in light of the new evidence ~~((it.)); or~~

2. For major institution master plans, the Council has determined that there is a need for additional information or new proposal(s) pursuant to 23.69.032.

F. The Council may allow oral or written arguments based on the record.

Section 11. Subsections A, C and E of Section 23.76.056 of the Seattle Municipal Code, which section was last amended by Ordinance 120928, are amended as follows:

**23.76.056 Council decision on Hearing Examiner Recommendation.**

A. The Council's decision to approve, approve with conditions, remand, or deny the application for a Type IV land use decision shall be based on substantial evidence in the record established pursuant to ((SMC)) Section 23.76.054.

\* \* \*

C. To the extent such information is available to the Council, the decision should contain the name and address of the owner of the property at issue, of the applicant, and of each person who filed an appeal of the Hearing Examiner's recommendation (~~(a request for further consideration)~~) with the Council, unless such person abandoned the appeal (~~(request)~~) or such person's claims were dismissed before the hearing.

\* \* \*

E. A copy of the Council's findings, conclusions and decision shall be transmitted to the City Clerk, who shall promptly send a copy to the Director and the Hearing Examiner, and ~~((shall)) promptly mail copies to all parties of record ((and to any person who has submitted substantive comments to the Director, Hearing Examiner or City Council on the proposal)).~~ The Clerk's transmittal letter shall include official notice of the time and place for seeking judicial review. The Director shall be bound by and incorporate the terms and conditions of the Council's decision in permits issued to the applicant or on approved plans.



\* \* \*

Section 12. Subsection B of Section 23.76.058 of the Seattle Municipal Code, which section was last amended by Ordinance 122054, is amended as follows:

**23.76.058 Rules for specific decisions.**

\* \* \*

**B. Contract Rezones**

1. When a property use and development agreement is required as a condition to an amendment of the Official Land Use Map, the ~~((ordinance rezoning the property shall provide for acceptance of the agreement and shall not be passed by the Council until the agreement has been executed by the owner))~~ amendment shall not take effect until the later of (1) the effective date of the ordinance approving the map amendment and accepting the property use and development agreement, as specified in the ordinance or pursuant to Section 1.04.020 or (2) the recording in the King County Recorder's Office of the agreement executed by all owners and other parties with interests in or liens on the property whose signatures are reasonably necessary to assure that the parties potentially affected by the restrictions in the property use and development agreement have consented to be bound by it. The ~~((executed))~~ agreement shall be recorded in the real property records of King County and filed with the City Clerk within thirty (30) ~~((one hundred twenty (120)))~~ days ~~((of))~~ after adoption of the ordinance approving the map amendment and accepting the agreement.

2. Amendment of ~~((Contract Rezone))~~ Property Use and Development Agreements. ~~((Agreements required))~~ Property use and development agreements recorded as a condition to a map amendment((s)) may be amended by agreement between the owner and the City, provided ((the amended agreement)) that any such amendment shall be approved by the Council.

a. A request to amend shall be submitted to the Department of Planning and Development and filed with the City Clerk. Notice of a request to amend and opportunity to comment shall be provided in accordance with notice requirements of Section 23.76.012 B(1) or B(2), and B(3), and to the parties of record in the



1 original rezone decision and to those persons who were provided written notice of  
2 the Hearing Examiner's recommendation in the original rezone decision.

3 b. The Director shall determine whether the requested amendment is major or  
4 minor.

5 (1) Minor amendments. A minor amendment is one that is ((Amendments  
6 which are)) within the spirit and general purpose of the prior decision of  
7 the Council, is generally consistent with the uses and development  
8 standards approved in the prior decision of the Council, would not result in  
9 significant adverse impacts that were not anticipated in the prior decision  
10 of the Council, and does not request any additional waivers or changes in  
11 the waivers of bulk or off-street parking and loading requirements other  
12 than those approved in the prior decision of the Council. If the Director  
13 determines that a proposed amendment is minor, the Director shall  
14 transmit to Council the request to amend, the Director's determination that  
15 the request is minor, any comments received by the Director on the  
16 proposed amendment, the Director's environmental determination and  
17 recommendation on the amendment. A request to amend that is minor and  
18 that complies with the rezone criteria of Chapter 23.34 may be approved  
19 by the Council by ordinance after receiving any additional advice  
20 ((which)) that it deems necessary. ((Written notice and an opportunity to  
21 comment shall be provided by the Council at least fourteen (14) days prior  
22 to Council consideration of the requested amendment to persons who  
23 submitted written or oral comments on the original rezone decision.  
24 Amendments which in the judgment of the Council represent a major  
25 departure from the terms of the agreement))

26 (2) Major Amendments. Requests that are not minor are major. The  
27 Council shall not approve a major amendment to a property use and  
28

development agreement ~~((shall not be approved))~~ until the Council has received a recommendation from the Hearing Examiner after a public hearing held as provided for rezones in Section 23.76.052, Hearing Examiner open record predecision hearing and recommendation.

\* \* \*

Section 13. Subsection A, B and D of Section 23.76.060 of the Seattle Municipal Code, which section was last amended by Ordinance 122054, are amended as follows:

**23.76.060 Expiration of land use approvals – Extensions.**

A. Approvals Granted Under Title 24. Expiration of Council land use approvals granted under ~~((SMC))~~ Title 24, Zoning and Subdivisions, ~~((shall be))~~ are governed by the applicable provisions of ~~((SMC Title 24, Zoning and Subdivisions, and SMC))~~ Section 23.04.010, Transition to the Land Use Code.

B. Contract Rezones, Council Conditional Uses, Major Institution master plans and Public projects.

1. Contract rezones, Council conditional uses, Major Institution master plans and public projects approved under Title 23 ~~((shall))~~ expire two (2) years from the effective date of approval unless:

- a. Within the two (2) year period, an application is filed for a Master Use Permit, which permit is subsequently issued; or
- b. Another time for expiration is specified in the Council's decision.

2. If a Master Use Permit is issued for the contract rezone, Council conditional use, Major Institution master plan, or public project, the Council's approval of the contract rezone, Council conditional use or public project, ~~((shall remain))~~ remains in effect until the Master Use Permit expires pursuant to the provisions of Section 23.76.032, or until the time specified by the Council, whichever is longer.



3. When a contract rezone expires, the Director shall file a certificate of expiration with the City Clerk and a notation shall be placed on the Official Land Use Map showing the reversion to the former classification.

\* \* \*

D. Extensions. The Council may extend the time limits on Type IV land use approvals for no more than two (2) years, upon an applicant's request for an extension filed with the City Clerk ((Council)) at least thirty (30) days before the approval's expiration. The Council may request a recommendation on the extension request from the Director, but the Hearing Examiner hearing and recommendation requirements of Section 23.76.052 do not apply. Notice for requests for extensions of Type IV land use decisions shall be provided pursuant to Sections 23.76.012 B(1) or B(2), and B(3).

1. The Council may not extend the time limits for a Type IV land use approval for a project that is not in conformance with applicable regulations, including land use and environmentally critical areas regulations, in effect at the time an extension is sought.

2. In deciding whether to grant a request for an extension, the Council shall consider:

a. The reason or basis for the request for the extension and whether it is reasonable under the circumstances;

b. Whether changed circumstances in the area support an extension;

c. Whether additional time is reasonably necessary to comply with a condition of approval adopted by the Council required prior to expiration of the land use approval.

\* \* \*

Section 14. Subsection P of Section 23.84A.030. of the Seattle Municipal Code, which section was last amended by Ordinance 122311, is amended as follows:

**23.84A.030 Definitions "P."**

\* \* \*





"Party of record" means any person (~~(, group, association or corporation that)~~) who files an appeal; a person granted party status through intervention; the City department making the decision or determination and any of its employees or agents; the owner(s) of the property subject to the quasi-judicial action; and the person who files an application for a permit or other type of development authorization that is the subject of the appeal.

\* \* \*

Section 15. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_ day of \_\_\_\_, 2007, and signed by me in open session in authentication of its passage this \_\_\_\_ day of \_\_\_\_, 2007.

\_\_\_\_\_  
President \_\_\_\_ of the City Council

Approved by me this \_\_\_\_ day of \_\_\_\_, 2007.

\_\_\_\_\_  
Gregory J. Nickels, Mayor

Filed by me this \_\_\_\_ day of \_\_\_\_, 2007.

\_\_\_\_\_  
City Clerk

(Seal)

ATTACHMENT A: Amended Exhibit 23.76.004A



Attachment A

**Exhibit 23.76.004A  
LAND USE DECISION FRAMEWORK**

**DIRECTOR'S AND HEARING EXAMINER'S  
DECISIONS REQUIRING MASTER USE PERMITS**

<b>TYPE I</b> <b>Director's Decision</b> <b>(No Administrative Appeal)</b>	<b>TYPE II</b> <b>Director's Decision</b> <b>(Appealable to Hearing Examiner*)</b>	<b>TYPE III Hearing Examiner's Decision</b> <b>(No Administrative Appeal)</b>
<ul style="list-style-type: none"> <li>• Compliance with development standards</li> <li>• Uses permitted outright</li> <li>• Temporary uses, four weeks or less</li> <li>• Intermittent uses</li> <li>• Certain street uses</li> <li>• Lot boundary adjustments</li> <li>• Modifications of features bonused under Title 24</li> <li>• Determinations of significance (EIS required) except for determinations of significance based solely on historic and cultural preservation</li> <li>• Temporary uses, twelve months or less, for relocation of police and fire protection</li> <li>• Exemptions from right-of-</li> </ul>	<ul style="list-style-type: none"> <li>• Temporary uses, more than four weeks</li> <li>• Variances</li> <li>• Administrative conditional uses</li> <li>• Shoreline decisions (*appealable to Shorelines Hearings Board along with all related environmental appeals)</li> <li>• Short subdivisions</li> <li>• Special exceptions</li> <li>• Design review</li> <li>• Light rail transit facilities</li> <li>• Monorail transit facilities</li> <li>• The following environmental determinations: <ul style="list-style-type: none"> <li>1. Determination of</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Subdivisions (preliminary plats)</li> </ul>

**Exhibit 23.76.004A**  
**LAND USE DECISION FRAMEWORK**

**DIRECTOR'S AND HEARING EXAMINER'S  
 DECISIONS REQUIRING MASTER USE PERMITS**

<b>TYPE I</b> <b>Director's Decision</b> <b>(No Administrative Appeal)</b>	<b>TYPE II</b> <b>Director's Decision</b> <b>(Appealable to Hearing Examiner*)</b>	<b>TYPE III Hearing Examiner's Decision</b> <b>(No Administrative Appeal)</b>
<p>way improvement requirements</p> <ul style="list-style-type: none"> <li>• Special accommodation</li> <li>• Reasonable accommodation</li> <li>• Minor amendment to a Major Phased Development Permit</li> <li>• Determination of public benefit for combined lot FAR</li> <li>• Other Type 1 decisions that are identified as such in the Land Use code</li> </ul>	<p>nonsignificance (EIS not required)</p> <p>2. Determination of final EIS adequacy</p> <p>3. Determination of significance based solely on historic and cultural preservation</p> <p>4. A decision by the Director to approve, condition or deny a project based on SEPA Policies</p> <p>5. A decision by the Director that a project is consistent with a Planned Action Ordinance and EIS (no threshold determination or EIS required)</p> <ul style="list-style-type: none"> <li>• Major Phased Development</li> <li>• Downtown Planned Community Developments</li> </ul>	



## COUNCIL LAND USE DECISIONS

TYPE IV (Quasi-Judicial – subject to Hearing Examiner recommendation)	TYPE V (Legislative)
<ul style="list-style-type: none"><li>• <u>Amendments to the Official Land ((use))Use ((map))Map ((amendments)) (rezones), except area-wide amendments, and adjustments pursuant to Section 23.69.023</u></li><li>• Public project approvals</li><li>• Major Institution master plans, including <u>major amendments and renewal of a master plan's development plan component</u></li><li>• <u>Major amendments to Property Use and Development agreements</u></li><li>• Council conditional uses</li></ul>	<ul style="list-style-type: none"><li>• Land Use Code text amendments</li><li>• <del>((Rezoning to implement new City Policies))</del> <u>Area-wide amendments to the Official Land Use Map</u></li><li>• Concept approval for City facilities</li><li>• Major Institution designations</li><li>• <del>((Waive))</del> <u>Waiver or ((modify)) modification of development standards for City facilities</u></li><li>• Planned Action Ordinance</li></ul>

---

**STATE OF WASHINGTON – KING COUNTY**

--SS.

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216021  
CITY OF SEATTLE, CLERKS OFFICE

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:ORDINANCE 122497

was published on

10/02/07

The amount of the fee charged for the foregoing publication is the sum of \$ 906.75, which amount has been paid in full.



*Samela Oglesky*

Subscribed and sworn to before me on

10/02/07

Notary public for the State of Washington,  
residing in Seattle

# City of Seattle

## ORDINANCE 122497

AN ORDINANCE relating to quasi-judicial decisions made by the City Council;

amending sections 20.04.090, 23.34.004, 23.69.032, 23.76.004, 23.76.005, 23.76.036, 23.76.040, 23.76.050, 23.76.052, 23.76.054, 23.76.056, 23.76.058, 23.76.060 and 23.84A.030.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection D1 of Section 20.04.090 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, is amended as follows:

20.04.090 Final Assessment Roll - Hearing - Conduct.

\*\*\*

D.1. An appeal pursuant to subsection C of this section may be filed only by a party who timely perfected a protest at the initial hearing. The notice of appeal shall, in addition to requirements as to content specified elsewhere in this chapter, state clearly on the cover or cover page the number of the local improvement district and the appellant's name and shall be filed with the City Clerk no later than the fourteenth (14th) (fifteenth) day after the day upon which the report and recommendation of the Hearing Examiner or other officer is filed with the City Clerk.

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Section 2. Subsection A of Section 23.34.004 of the Seattle Municipal Code, which section was last amended by Ordinance 112622, is amended as follows:

23.34.004 Contract rezones.

A. Property Use and Development Agreement (PUDA). The Council may approve a map amendment subject to the execution, delivery and recording of an agreement executed by the legal or beneficial owner of the property to be rezoned to self-imposed restrictions upon the use and development of the property in order to ameliorate adverse impacts (which) that could occur from unrestricted use and development permitted (in-the-zone) by development regulations otherwise applicable after the rezoning. All restrictions shall be directly related to the impacts (which) that may be expected to result from the amendment. A rezoning shall be conditioned on performance or compliance with the terms and conditions of the property use and development agreement. Council may revoke a contract rezoning or take other appropriate action allowed by law for failure to comply with a PUDA. The agreement(s) shall be approved as to form by the City Attorney, and shall not be construed as a relinquishment by the City of its discretionary powers.

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Section 3. Subsection I of Section 23.69.032 of the Seattle Municipal Code, which section was last amended by Ordinance 121477, is amended as follows:

23.69.032 Master plan process.

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I. Council Consideration of the Hearing Examiner's Recommendation.

1. The Council shall review and consider the Hearing Examiner's recommendation as provided in Section 23.76.054. Council consideration of Hearing Examiner recommendation. The goal of the Council shall be to take final action on the Hearing Examiner's recommendation no later than three (3) months after the date it receives the recommendation.

2. If the Council examines the proposed master plan and all recommendations for changes, alternatives, mitigating measures and conditions, and determines that a significant master plan element (or environmental issue) was not adequately addressed by the proposed master plan, the Council may remand the master plan for submission of additional information and/or new proposal(s) on the issue determined to be inadequately addressed, in a time frame specified in the remand (request the institution to prepare new proposals on the issue identified; may request the Director to conduct further analysis or provide clarification; and may request the Advisory Committee to convene for the limited purpose of commenting on the new proposal(s)). The institution shall submit the additional information and/or new proposals to the Advisory Committee, to the parties of record to the Council decision to remand, and to the Director. The Advisory Committee shall prepare and submit comments and a report to the Director. The Director shall submit a report and recommendation on the additional information and/or new proposal(s) to the Hearing Examiner. The Hearing Examiner shall consider the additional information and/or new proposal(s) and submit a recommendation to Council pursuant to subsection 23.69.32H above. (The new proposals shall also be submitted to the Director, Advisory Committee and parties of record for comment. After the new proposals and comments have been received, the Council may:

a. Remand the new proposals and Advisory Committee comments and recommendations to the Director for further consideration and report; or

b. Direct the Hearing Examiner to conduct another hearing and to reconsider the recommendation based on the new proposals; the Advisory Committee comments and recommendation; and/or any comments pertaining to the limited issues which were presented by other parties of record; or

c. Open the record for a hearing on the new proposals; the Advisory Committee comments and recommendation; and any comments pertaining to the limited issues which were presented by other parties of record.)

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Section 4. Exhibit 23.76.004 A Land Use Decision Framework, which section was last amended by Ordinance 121828, is amended as shown in Attachment A.

Section 5. Subsection C of Section 23.76.005 of the Seattle Municipal Code, which section was last amended by Ordinance 120857, is amended as follows:

23.76.005 Time for decisions.

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C. Exclusions Pursuant to RCW 36.70B.140(1).

1. Type II decisions. There ((shall-be)) is no time limit for a decision on an application for an exception from the regulations for Environmentally Critical Areas, SMC Chapter 25.09.

2. Type III decisions.

a. The Director shall issue ((his or her)) a recommendation within one hundred twenty (120) days as that time is calculated pursuant to subsection A of this section; and

b. The Hearing Examiner shall issue ((his or her)) a decision within ninety (90) days of issuance of the Director's recommendation.

3. Type IV decisions.

a. There is ((shall-be)) no time limit for decisions on Major Institution master plans.

b. All other Type IV Council land use decisions and any associated Type II decisions listed in Section 23.76.006C2, except for the exclusion listed in subsection C1 of this section, shall be made within the following time periods:

(1) The Director shall issue ((his or her)) a recommendation within one hundred twenty (120) days as that time period is calculated pursuant to subsection A of this section;

(2) The Hearing Examiner shall issue ((his or her)) a decision within ninety (90) days of issuance of the Director's recommendation; and

(3) The Council shall issue its decision within ninety (90) days of receipt of the Hearing Examiner recommendation, except that if a timely appeal is filed with the City Clerk, the Council shall issue its decision within one hundred twenty (120) days of receipt of the Hearing Examiner recommendation.

4. Any application for a land use decision that the Hearing Examiner or Council remands for further information or analysis shall be excluded from the time periods of subsection A of this section for the period of the remand. The Hearing Examiner or the Council shall set a reasonable period for the remand after consideration of the nature and complexity of the issues, and, when practicable, after consultation with the parties about the reasonableness of the remand period.

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Section 6. Section 23.76.036 of the Seattle Municipal Code, which section was last amended by Ordinance 122054, is amended as follows:

23.76.036 Council decisions required.

A. Quasi-judicial decisions

1. The Council shall make the following Type IV Council land use decisions, including any integrated decisions to approve, condition or deny based on SEPA Policies, and any associated Type II decisions listed in Section 23.76.006C2:

((4))a. Amendments to the Official Land Use Map, including changes in overlay districts and shoreline environment redesignations, except ((those initiated by the City)) area-wide amendments, and except ((boundary)) adjustments ((caused by the acquisition, merger or consolidation of two (2) Major Institutions)) pursuant to Section 23.69.023;

((2))b. Public projects ((proposed by applicants other than The City of Seattle)) that require Council approval;

((3))c. Major Institution master plans, including major amendments as defined in Section 23.69.035 and renewal of a master plan's development plan component pursuant to Section 23.69.034 ((supplemental procedures for master plans are established in SMC Chapter 25.09)); and

((2))d. Council conditional uses ((3)); and

a. Major amendments to Property Use and Development Agreements pursuant to Section 23.76.068.

2. The Council shall also make the following quasi-judicial decisions:

a. Minor amendments to Property Use and Development Agreements; and

b. Extensions of Type IV land use decisions pursuant to Section 23.76.060.

B. Council action ((shall-be)) is required for the following Type V land use decisions:

1. ((City-initiated)) Area-wide amendments to the Official Land Use Map;

2. Amendments to the text of ((SMG)) Title 23, Land Use Code;

3. Concept approval for the location or expansion of City facilities requiring Council land use approval by ((SMG)) Title 23, Land Use Code;

4. Major Institution designations and revocations of Major Institution designations;

5. ((Waive)) Waiver or ((modify)) modification of development standards for City facilities;

6. Planned action ordinances; and

7. Corrections of errors on the official Land Use Map due to cartographic and clerical mistakes.

Section 7. Subsection B of Section 23.76.040 of the Seattle Municipal Code, which section was last amended by Ordinance 122054, is amended as follows:

23.76.040 Applications for Council land use decisions.

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B. All applications for Council land use decisions shall be made to the Director on a form provided by the Department. The Director shall ((promptly transmit notice of applications for Council land use decisions to the City Clerk for filing with the Council));

1. For Council land use decisions that do not include a design review component and are not applications for Major Institution Master Plans, transmit notice of the application to the City Clerk for filing with the City Council promptly after the application is first submitted.

2. For Council land use decisions that include a design review component:

a. For applications subject to design review by the Design Review Board, transmit notice of the early design guidance public meeting to the City Clerk for filing with the City Council promptly at the same time public notice is provided.

b. For applications subject to administrative design review, transmit notice of the application to the City Clerk for filing with the City Council promptly after the applicant applies to begin the early design guidance process.

3. For applications for Major Institution Master Plans, transmit the notice of intent to prepare a master plan to the City Clerk for filing with the City Council promptly after the notice of intent is received.

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Section 8. Subsection D of Section 23.76.050 of the Seattle Municipal Code, which section was last amended by Ordinance 121478, is amended as follows:

23.76.050 Report of the Director.

\*\*\*

D. For Type IV Decisions, the Director's report shall be submitted to the Hearing Examiner and filed with the City Clerk on the same date the notice of availability of the Director's report is given pursuant to Section 23.76.052. The Director's report shall be made available for public inspection at least twenty-one (21) days prior to the Hearing Examiner's open record predecision public hearing described in Section 23.76.052.

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Section 9. Subsection C.1 of Section 23.76.052 of the Seattle Municipal Code, which section was last amended by Ordinance 121477, is amended as follows:

23.76.052 Hearing Examiner open record predecision hearing and recommendation.

\*\*\*

## State of Washington, King County

## C. Notice.

1. The Director shall give notice of the Hearing Examiner's hearing, the Director's environmental determination, and of the availability of the Director's report at least ~~((fifteen (15)))~~ <sup>twenty-one (21)</sup> days prior to the hearing by:

- Land Use Information Bulletin;
- Publication in the City official newspaper;
- Submission of the Land Use Information Bulletin to at least one (1) community newspaper in the area affected by the proposal;
- One (1) land use sign visible to the public posted at each street frontage abutting the site except, when there is no street frontage or the site abuts an unimproved street, the Director shall either post more than one (1) sign and/or select an alternative posting location so that notice is clearly visible to the public. For hearings on Major Institution Master Plans, one (1) land use sign posted at each street frontage abutting the site but not to exceed ten (10) land use signs;
- Mailed notice; and
- Posting in the Department.

Section 10. Section 23.76.054 of the Seattle Municipal Code, which section was last amended by Ordinance 118012, is amended as follows:

### 23.76.054 Council consideration of Hearing Examiner recommendation.

A. Any person substantially affected by or interested in the Hearing Examiner's recommendation regarding a Type IV land use decision may submit in writing an appeal of the recommendation to the Council ~~((a request for further consideration of the recommendation))~~ and, if desired, a request to supplement the record. No appeals ~~((requests for further consideration))~~ of a DNS or the determination that an EIS is adequate will be accepted.

B. Appeals of the Hearing Examiner's recommendation ~~((Requests for further consideration))~~ shall be filed with the City Clerk ~~((Council))~~ by five (5:00) p.m. of the fourteenth (14th) calendar day following the date of issuance of the Hearing Examiner's recommendation. When the last day of the request period so computed is a Saturday, Sunday or federal or City holiday, the request period ~~((shall run))~~ runs until five (5:00) p.m. on the next business day.

C. The appeal ~~((request))~~ shall clearly identify specific objections to the Hearing Examiner's recommendation ~~((facts missing from the record))~~ and specify the relief sought.

D. ~~((G))~~. After the City Clerk's ~~((Council))~~ receipt of an appeal ~~((the request for further consideration))~~, the Council staff shall mail a copy of the appeal ~~((request for further consideration))~~ and instructions for responding ~~((to the request))~~ to those persons ~~((individuals))~~ who were provided written notice of the Hearing Examiner's recommendation ~~((action))~~. Such notice shall be mailed at least ~~((twenty-one (21) (seven (7))))~~ days prior to the date of the Council's public meeting to consider the appeal ~~((request for further consideration))~~.

E. ~~((D))~~. Council action shall be based on the record established by the Hearing Examiner. ~~((provided, however, that if a request for further consideration includes a request to supplement the record, the))~~ The Council may supplement the record with new evidence or information if the Council determines that the new evidence or information was not available or could not reasonably have been produced at the time of the open record hearing before the Hearing Examiner. The Council may remand an application for a Type IV land use decision only when ~~((the))~~:

1. The Council has voted to supplement the record and has determined ~~((the Council determines that it is necessary for))~~ that the Director or the Hearing Examiner should ~~((to receive the new evidence and))~~ reconsider the application in light of the new evidence ~~((it))~~ or

2. For major institution master plans, the Council has determined that there is a need for additional information or new proposals pursuant to 23.69.032.

E. The Council may allow oral or written arguments based on the record.

Section 11. Subsections A, C and E of Section 23.76.056 of the Seattle Municipal Code, which section was last amended by Ordinance 120928, are amended as follows:

### 23.76.056 Council decision on Hearing Examiner Recommendation.

A. The Council's decision to approve, approve with conditions, remand, or deny the application for a Type IV land use decision shall be based on applicable law and supported by substantial evidence in the record established pursuant to ~~((SMC))~~ Section 23.76.054. An appellant bears the burden of proving that the Hearing Examiner's recommendation should be rejected or modified.

C. To the extent such information is available to the Council, the decision should con-

tain the name and address of the owner of the property at issue, of the applicant, and of each person who filed an appeal of the Hearing Examiner's recommendation ~~((a request for further consideration))~~ with the Council, unless such person abandoned the appeal ~~((request))~~ or such person's claims were dismissed before the hearing.

E. A copy of the Council's findings, conclusions and decision shall be transmitted to the City Clerk, who shall promptly send a copy to the Director and the Hearing Examiner, and ~~((shall))~~ promptly mail copies to all parties of record ~~((and to any person who has submitted substantive comments to the Director, Hearing Examiner or City Council on the proposal))~~. The Clerk's transmittal letter shall include official notice of the time and place for seeking judicial review. The Director shall be bound by and incorporate the terms and conditions of the Council's decision in permits issued to the applicant or on approved plans.

Section 12. Subsection B of Section 23.76.058 of the Seattle Municipal Code, which section was last amended by Ordinance 122054, is amended as follows:

### 23.76.058 Rules for specific decisions.

#### B. Contract Rezones

1. When a property use and development agreement is required as a condition to an amendment of the Official Land Use Map, the ~~((ordinance rezoning the property))~~ shall not be passed by the Council until an agreement has been executed by the owner. The amendment shall not take effect until after (1) the effective date of the ordinance approving the map amendment and accepting the property use and development agreement as specified in the ordinance or pursuant to Section 1.04.020 or (2) the recording in King County Recorder's Office of the agreement executed by the legal and beneficial owners. The ~~((executed))~~ agreement shall be recorded in the real property records of County and filed with the City Clerk within thirty (30) ~~((one hundred twenty (120)))~~ days after adoption of the ordinance approving the map amendment and accepting the agreement.

2. Amendment of ~~((Contract-Re Property Use and Development Agreement))~~ ~~((Agreement))~~ required ~~((Property use development agreements recorded as a))~~ condition to a map amendment ~~((a))~~ may be adopted by agreement between the owner and City, provided ~~((the amended agreement))~~ that any such amendment shall be a by the Council.

a. A request to amend shall be filed with the Department of Planning and Development and filed with the City Clerk. Notice of a request to amend and opportunity to comment shall be provided in accordance with notice requirements of Section B(1) or B(2), and B(3), and to the record in the original rezoning decision to those persons who were provided written notice of the Hearing Examiner's recommendation in the original rezoning decision.

b. The Director shall determine whether the requested amendment is major or minor.

(1) Minor amendments. A minor amendment is one that is ~~((Amendments which are))~~ within the spirit and general purpose of the prior decision of the Council, is generally consistent with the uses and development standards approved in the prior decision of the Council, would not result in significant adverse impacts that were not anticipated in the prior decision of the Council, and does not request any additional waivers or changes in the waivers of bulk or off-street parking and loading requirements other than those approved in the prior decision of the Council. If the Director determines that a proposed amendment is minor, the Director shall transmit to Council the request to amend, the Director's determination that the request is minor, any comments received by the Director on the proposed amendment, the Director's environmental determination and recommendation on the amendment. A request to amend that is minor and that complies with the rezoning criteria of Chapter 23.34 may be approved by the Council by ordinance after receiving any additional advice ~~((which))~~ that it deems necessary. ~~((Written notice and an opportunity to comment shall be provided by the Council at least fourteen (14) days prior to Council consideration of the requested amendment to persons who submitted written or oral comments on the original rezoning decision. Amendments which in the judgment of the Council represent a major departure from the terms of the agreement))~~

(2) Major Amendments. Requests that are not minor are major. The Council shall not approve a major amendment to a property use and development agreement ~~((shall not be approved))~~ until the Council has received a recommendation from the Hearing Examiner after a public hearing held as provided for rezones in Section 23.76.052, Hearing Examiner open record predecision hearing and recommendation.

Section 13. Subsection A, B and D of Section 23.76.060 of the Seattle Municipal Code, which section was last amended by Ordinance 122054, are amended as follows:

### 23.76.060 Expiration of land use approvals - Extensions.

A. Approvals Granted Under Title 24. Expiration of Council land use approvals granted under ~~((SMC))~~ Title 24, Zoning and Subdivisions, ~~((shall be))~~ are governed by the applicable provisions of ~~((SMC Title 24, Zoning and Subdivisions, and SMC))~~ Section 23.04.010, Transition to the Land Use Code.

B. Contract Rezones, Council Conditional Uses and Public Projects.

1. Contract rezones, Council conditional uses and public projects approved under Title 23 ~~((shall))~~ expire two (2) years from the effective date of approval unless:

a. Within the two (2) year period, an application is filed for a Master Use Permit, which permit is subsequently issued; or

b. Another time for expiration is specified in the Council's decision.

2. If a Master Use Permit is issued for the contract rezone, Council conditional use or public project, the Council's approval of the contract rezone, Council conditional use or public project, ~~((shall remain))~~ remaining in effect until the Master Use Permit expires pursuant to the provisions of Section 23.76.032, or until the time specified by the Council, whichever is longer.

3. When a contract rezone expires, the Director shall file a certificate of expiration with the City Clerk and a notation shall be placed on the Official Land Use Map showing the reversion to the former classification.

D. Extensions. The Council may extend the time limits on Type IV land use approvals for no more than two (2) years, upon an applicant's request for an extension filed with the City Clerk ~~((Council))~~ at least thirty (30) days before the approval's expiration. The Council may request a recommendation on the extension request from the Director, but the Hearing Examiner hearing and recommendation requirements of Section 23.76.052 do not apply. Notice for requests for extensions of Type IV land use decisions shall be provided pursuant to Sections 23.76.012 B(1) or B(2), and B(3).

1. The Council may not extend the time limits for a Type IV land use approval for a project that is not in conformance with applicable regulations, including land use and environmentally critical areas regulations, in effect at the time an extension is sought.

2. In deciding whether to grant a request for an extension, the Council shall consider:

a. The reason or basis for the request for the extension and whether it is reasonable under the circumstances;

b. Whether changed circumstances in the area support an extension;

c. Whether additional time is reasonably necessary to comply with a condition of approval adopted by the Council that is required to be fulfilled prior to expiration of the land use approval.

Section 14. Subsection P of Section 23.84A.030 of the Seattle Municipal Code, which section was last amended by Ordinance 122311, is amended as follows:

### 23.84A.030 Definitions "P."

"Party of record" means any person ~~((group, association or corporation that))~~ who files an appeal; a person granted party status through intervention; the City department making the decision or determination and any of its employees or agents; the owner(s) of the property subject to the quasi-judicial action; and the person who files an application for a permit or other type of development authorization that is the subject of the appeal.

Section 15. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 17th day of September, 2007, and signed by me in open session in authentication of its passage this 17th day of September, 2007.

NICK LACATA,

President of the City Council.

Approved by me this 21st day of September, 2007.

GREGORY J. NICKELS,

Mayor.

Filed by me this 27th day of September, 2007.

(Seal) JUDITH E. PIPPIN,

City Clerk.

ATTACHMENT A: Amended Exhibit 23.76.004A

Publication ordered by JUDITH PIPPIN, City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, October 2, 2007.

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